

IOWA DELAYED DEPOSIT SERVICES HISTORY

Industry-promoted regulation requiring licensing became effective July 1, 1995. Besides licensing, this regulation established fee ceilings (generally 10% of check amount + \$5) and other restrictions and also required that each license be examined annually by the Division of Banking for compliance with state and federal statutes.

By the end of 1995, there were 7 licensed locations. By the end of 1996 - 17; 1997 - 64; 1998 - 131, 1999 – 138, 2000 – 126, 2001 – 146, 2002 – 149, 2003 – 179, 2004 – 207, 2005-237, 2006-277, 2007-277, and 2008-270. As of December 31, 2008, 58 different entities held 270 licenses.

CRITERIA TO OBTAIN A DELAYED DEPOSIT SERVICES LICENSE

- 1) Application fee of \$100 and licensing fees of \$250 per location.
- 2) \$25,000 surety bond per county in operation.
- 3) \$25,000 in unencumbered assets (per county in operation) available for operating the business
- 4) Financial responsibility and character of applicant must be such to warrant the business will be operated honestly and fairly pursuant to state and federal laws.

HOW IT WORKS

In general a licensee may accept up to 2 checks from any one maker so long as the aggregate of those checks does not exceed \$500. The maximum term or scheduled delay until the check is to be redeemed is 31 days. (14 days is the common maximum term we see in our examinations.) The fee ceiling is 15% on the first \$100, and 10% thereafter. For example for a \$100 check, customer will receive \$85, with the licensee collecting a \$15 fee when the check is redeemed. For a \$200 check the customer receives \$175, with the licensee collecting a \$25 fee when the check is redeemed. Two weeks later the check is either deposited, or the borrower must come in with the entire \$200 cash.

Iowa Code §533D.10(1)(e) prohibits renewals of these transactions. In fact, we have informed the licensees via Information Bulletin # 1, that the practice of receiving another postdated check on the same day that a previous postdated check violates the intent of §533D.10(1)(e). The licensee is to refrain from making postdated loans on the same day that a previous postdated check is paid. Fees collected on postdated transactions without a one day delay are considered excessive.

We do allow for an exception to the above position when the sum of all checks (new and old) does not exceed \$500 and if the total number of checks (new and old) does not exceed 2. The rationale being a borrower could have come in the day before and done the same thing.

Example 1: Borrower has provided check #1 for \$200 to be presented on January 6. On January 6, the borrower pays off (with \$200 cash) check #1, and the borrower then provides check #2 for \$200 (receiving \$175). We would not cite this as a violation because the borrower's two checks total only \$400 and the total number of checks is only 2.

Example 2: Borrower has provided check #1 for \$300 to be presented on January 6. On January 6, borrower pays off (with \$300 cash) check #1, and then the borrower provides check #2 for \$300 (receiving \$265). We would cite this as a violation because the sum of check #1 and check #2 (\$600) exceeds the \$500 limit. We would require a refund of the \$35 fee charged the borrower on the second transaction.

Example 3: Borrower has provided check #1 for \$100 on January 6 to be presented on January 20. On January 13, the same borrower provided check #2 for \$200 to be presented on January 27. On January 20, borrower pays off (with \$100 cash) check #1, and then provides check #3 for \$100 (receiving \$85). We would cite this as a violation because the number of checks (3) exceeds the 2 limit. We would not allow the fee on the 3rd transaction requiring a refund of \$15.

The position stated previously regarding renewals and same day transactions has been our position for enforcement. This position has not been made an official rule nor gone through the administrative process of a formal rule. We plan to introduce a rule to define renewal to require the one day delay.